

GERALD SCHOENFELD  
Chairman of the Board

October 22, 2008

**By Electronic Filing**

Chairman Kevin J. Martin  
Commissioner Jonathan S. Adelstein  
Commissioner Michael J. Copps  
Commissioner Robert M. McDowell  
Commissioner Deborah Taylor Tate

Federal Communication Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: **Ex Parte Comments of the Broadway League, ET Docket No. 04-186  
Introduction of Unlicensed Devices in the "White Spaces"**

Dear Chairman Martin, Commissioners Adelstein, Copps, McDowell and Tate:

I offer these comments with respect to the FCC Laboratory Division's evaluation of White Space devices dated October 15, 2008 and the FCC's notice of a vote on an order opening the white space spectrum to devices using spectrum sensing technology, scheduled for November 4, 2008. I wish to join the Broadway League's ex-parte filing dated October 21, 2008 and support the National Association of Broadcasters' Emergency Request<sup>1</sup> to stay the vote scheduled to coincide with the Presidential election.

I trust you remember our meetings on October 15, 2007 and July 24, 2008, when several other representatives of the Broadway industry and I met with FCC Chairman Kevin Martin, Commissioners and staff to discuss the white spaces issue.

During each of these meetings, Chairman Martin stated that our industry should have no cause for concern regarding the FCC permitting the utilization of new devices, or any other technologies, that could interfere with wireless microphone transmissions in Broadway Theatres as incumbent users of the white space spectrum.

At both meetings, Chairman Martin stated his intentions to have FCC engineers meet with sound designers of Broadway shows in New York to test various spectrum sensing devices to determine whether proposed hand-held devices would interfere with the wireless microphones used on Broadway. To my knowledge, there were three subsequent meetings with FCC engineers: on July 24, 2008 at the FCC laboratories in Columbia, Maryland and on August 11 and 12, 2008 at a wireless microphone demonstration, performances and spectrum sensing equipment testing at the THE PHANTOM OF THE OPERA in the Majestic Theatre in New York. The devices failed

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<sup>1</sup> Emergency Request, filed by The Association for Maximum Service Television, Inc. ("MSTV"), the National Association of Broadcasters ("NAB"), the ABC, CBS, and FOX Television Networks and the Open Mobile Video Coalition ("OMVC"), ET Docket Nos. 04-186 and 02-380, October 17, 2008.

during tests at the Majestic Theatre because they were not able to prevent interference for the Broadway Theatres' use of the white space frequency spectrum. This finding is confirmed in an initial review of the October 15 report.

We have stressed the importance of the Broadway Theatre and its equivalents in other venues and cities such as Las Vegas, Nashville, Los Angeles, Chicago and most every city throughout the United States. We have emphasized the economic benefit conferred on the areas where the white spaces are utilized such as theatres, churches, arenas, stadiums, music clubs, concert halls, youth centers, amusement/theme parks, senior centers and schools among other venues. We have indicated the strength and support of the Coalition of Broadway Unions and Guilds which represents tens of thousands of jobs in the New York area and across the country.

I respectfully urge that you afford us the opportunity to review the four-hundred page report that was prepared by your engineers which has only been made public on October 15th. Thus far, the regulations proposed for a vote on November 4<sup>th</sup>, which are possibly based upon the report, have not yet been made public. We request an opportunity to comment not only on the engineers' report, but also an opportunity in advance for review of any regulations that you intend to promulgate.

In order to do this in a manner that will afford due process, to which we believe we are entitled, I additionally urge you to remove this matter from the November 4 – Election Day- agenda and reschedule any voting for a future date after a hearing at which we, and other users similarly situated, would be afforded an opportunity to participate and be heard by the full Commission. Thereafter, of course, this matter could be placed on a future FCC Open Meeting agenda.

Based upon the history of what has transpired, I see no reason to rush to judgment and to thereby disregard all prior assurances upon which we have relied.

Thank you for your consideration of this letter.

Respectfully,

A handwritten signature in dark ink, appearing to read "Gerald Schoenfeld", written in a cursive style.

GERALD SCHOENFELD  
Chairman,  
The Shubert Organization